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Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities

Letter dated 2 November 2006 from the Permanent Representative of Georgia to the United Nations addressed to the Chairman of the Committee

I have the honour of writing to you in your capacity as the Chairman of the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities.

I have the honour to transmit herewith the report of Georgia pursuant to paragraph 6 of Security Council resolution 1455 (2003) (see annex).

(*Signed*) Irakli **Alasania**
Ambassador
Permanent Representative

06-62147 (E) 271106

Annex to the letter dated 2 November 2006 from the Permanent Representative of Georgia to the United Nations addressed to the Chairman of the Committee

Report presented by Georgia under paragraph 6 of Security Council resolution 1455 (2003)

I. Introduction

1. Nowadays no activities of either Usama bin Laden, or Al-Qaida, or the Taliban, or their associates have been ascertained on the territory of Georgia, though the danger of terrorism remains topical issue throughout the region because of the situation in the North Caucasus. According to our information, the groups acting in Chechnya and in the North Caucasus have definite contacts with the international terrorist organizations, and are trying to intensify these contacts. The conflict zones on the territory of Georgia, in particular, the territories of the Autonomous Republic of Abkhazia and the territory of former Autonomous District of South Ossetia, that are beyond jurisdiction of Georgia, also pose the danger. The separatist regimes fail to control the situation in the above regions that have led to establishment of favourable conditions for activities of terrorist groups as well as for flourishing smuggling, trafficking and other transnational organized crimes. In case the problems are not timely solved, the danger will likely endanger development of Georgia as the full-value state and the stability in the Caucasus in general.

II. Consolidated

2. The consolidated list of the natural and legal persons, members to the Taliban movement and Al-Qaida Organization and their associates drawn up by the 1267 UN Committee, (further "the List") was incorporated in the main database of the Counter-Terrorist Centre at the Ministry of Internal Affairs of Georgia since February 2006.

The List for the border immigration control is regularly transferred to the State Border Department of the Ministry of Internal Affairs, which is stored in the their computer database and is transferred to regional divisions of the State Border Department. The List is subject to review every three months.

In addition, the information about the people from the so-called "visit limited countries" applying for Georgian visa and the inviting persons for inspection is transferred beforehand by the consular department to the Counter-Terrorist Centre at the Ministry of Foreign Affairs. The above procedure is quiet short and it is implemented in the Centre under the 24-hour duty schedule. Similar service is available at the State Border Department of Georgia, and the Centre has direct contacts with it.

Under the order of the head of Financial Monitoring Service, the list of terrorists and their associates shall be approved, and it is obligatory for use by the persons implementing the financial monitoring. The list is identical to the abovemnetioned List (for details see answer on question 11).

3. No problems of the above nature have been ascertained.

4. To the present time, none of the persons and organizations included in the List is acting on the territory of Georgia.

At the same time, Georgia is mentioned among the places of activates of "he Benevolence International Foundation» and "Global Relief Foundation» organizations (of Benevolence International Foundation – Tbilisi city and Duisi and of Global Relief Foundation – no particular place is mentioned).

The humanitarian organization was registered under name "Madli" on 30 November 1999 by Tbilisi Vake-Saburtalo district court. It was proved as a result of the taken measures that Madli was closely cooperating with some Islamic organizations including "Global Relief Foundation" and "Benevolence International Foundation", "Islamic Foundation" and "Islamic Relief". The organization had opened banking accounts. On the ground of the above information, a leader of the organization, Naim Uddin, (native of Pakistan, national of USA, State of Georgia) in particular, was evicted from Georgia in March 2000, and his foreign currency accounts were frozen. The organization is not acting in Georgia now.

As for Global Relief Foundation, the organization attempted to start of operation on the territory of Georgia. In particular, nationals of Great Britain of Arabic origin, Uddin Said Jamal (passport No 037173572) and Chiglei Muzzamil (passport No. 070631938), attempted in January 2001 to found the branch of the above organization in Georgia – Society of Protection of Moslems. The above persons were evicted from Georgia in June 2001, and their accounts were frozen. The organization has never operated in Georgia. It does not exist now.

5. The Georgian competent bodies have no reliable information available about any persons and organizations that have contacts with Usama bin Laden, Al-Qaida and the Taliban and who are not included in the Consolidated List of the Committee.

6. No designated or listed individuals have brought lawsuits or engaged in legal proceedings against Georgian authorities for inclusion in the list.

7. No designated or listed individuals have been identified as nationals or residents of Georgia.. (for the answer to the question 2 – see answer to question 5).

8. Under the Article 327 of the Criminal Code of Georgia:

"1. Establishment or directing of terrorist organization, shall be punished by imprisonment for a period of from twelve to fifteen years.

2. Participation in the terrorist organization shall be punished by imprisonment a period of from ten to twelve"

Under the Article 328 of the Code:

Either joining, and/or assistance in terrorist actions of the terrorist organization of foreign country or under the foreign control, shall be punished by imprisonment for a period of from twelve to fifteen years

Under the Article 330.2 of the Criminal Code of Georgia, training for terrorist goals and objectives is a crime under the Criminal Code.

Training for terrorism implies to provide instruction in the making or use of explosives, firearms or other weapons or noxious or hazardous substances, or in other specific methods or techniques, for the purpose of carrying out or contributing to the commission of a terrorist offence under the code. The sanction for this crime under the Criminal Code implies imprisonment for period of from eight to eleven years. The sanction is toughened, and it implies imprisonment for period of from eleven to fifteen years then the crime is committed repeatedly, or against two or more persons. The Article 330.2 of the Criminal Code of Georgia also envisages criminal liability of legal persons. A crime committed by a legal person can be subject to the sanction that envisages revocation of the right of operation, fine or liquidation.

III. Financial and Economic Asset Freeze

9. For the purpose of prevention of funding of terrorism and laundering of proceeds from crime, in accordance with international standards effective legal mechanisms have been worked:

On 7 June 2002, the Parliament of Georgia ratified International Convention for the Suppression of the Financing of Terrorism

On 27 September 2000, the European Convention on the Suppression of Terrorism was also ratified.

On 7 June 2006 Convention on the Physical Protection of Nuclear Materials; Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation; Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf (the so-called counter-terrorist conventions) were ratified.

Under Article 6 of the Constitution of Georgia, an international agreement of Georgia unless it contradicts the Constitution of Georgia, shall take precedence over domestic normative acts.

On 6 June 2006, the Law Concerning Prevention Legalization of Illegal Incomes was adopted (further "the Law").

The above Law defines the mechanisms for revealing and prevention of legalization of illegal incomes and financing of terrorism.

Article 330.1 of the Criminal Code of Georgia envisages criminal liability for financing of terrorism. Funding of terrorism is interpreted as both collection of funds and other property,

or supply of them with the preliminary purpose of use wholly or partially, or possible use of them by terrorist organization, and/or under Article 227.1 (threatening to navigation of the vessels), Article 227.2 (illegal appropriation of fixed platforms, their destruction or damage), Article 231.1 (threat of illegal appropriation of nuclear materials), Article 323-330 and 330.2 (accordingly, terrorist act; technological terrorism; cyber-terrorism; attack upon high-rank political figure of Georgia; attack against internationally protected persons or organizations; establishment or directing of terrorist organization or participation in it; joining the terrorist organization of foreign state, or joining the similar organization under foreign control, or support to it; taking hostage for terrorist goals and objectives; capture of strategic objects, or objects of special significance, or blocking of them for terrorist goals and objectives; training for terrorism and/or for committing of any crime envisaged by the above Articles regardless was the crime committed or not. The above crimes shall be punished by imprisonment for a period of from ten to fourteen years. The above crimes committed by a group or committed repeatedly shall be punished by imprisonment for a period of from fourteen to seventeen years. The same crimes committed by terrorist organization, or those that led to grave consequences shall be punished by imprisonment for a period of from seventeen to twenty years or by life imprisonment. Criminal liability for the above crimes applies to legal persons as well. The sanction for them envisages fine, liquidation and revocation of the right of operation.

Under the Article 194 of the Criminal Code of Georgia, legalization of illegal incomes is a crime. Worth mentioning, new edition of the Article was adopted on 28 December 2005 as the legislative amendment. Under the above formulating, legalization of illegal incomes is interpreted as attaching of the legal status to the property obtained by criminal means (purchase, ownership, exploitation, conversion, transfer or other actions) aimed at concealment of their illegal origin as well as at concealment or masking of their real nature, origin, location, movement, right of ownership and/or other rights related to them.

Chapter XXIV of the Criminal-Procedural Code of Georgia defines procedural regulations of seizure of property. Under Article 190 of the above Code aiming at forcible criminal-procedural execution of the suit and ensuring of possible confiscation of property, the court can freeze the property of a suspect, or accused, or prisoner at the bar, or a person liable for his action, or a person involved (a person who owns the property on the ground of juridical documents, and there are enough proofs that the property was obtained as a result of criminal actions of a suspect, or an accused, or a prisoner at the bar, and the property is used by a suspect, or an accused, or a prisoner at the bar), including banking accounts if it is known that the property will be concealed or used, or the property is of criminal origin. If there are proofs of obtaining the property by criminal means, but the property fails to be found, the court is authorized to freeze other property of the respective value.

Freezing of property is also applied to preparation for either the terrorist crime, or grave crimes as well as with the aim of prevention from them provided there are enough proofs of possible use of the property for crimes envisaged by the Criminal Code of Georgia (Articles 323-330 and 330.1 of the Criminal Code).

Under the Article 191 of the Criminal-Procedural Code of Georgia, freezing of property prohibits the owner disposition of the property and, if necessary, of use of the property.

The Criminal-Procedural Code also defines the property that shall not be subject to seizure. In particular, seizure must not be applied to foodstuffs necessary for the accused and members of his family, fuel, professional equipment and other subjects that ensure normal living conditions of a person (Article 192).

When there is any ground under the Article 190 of the Criminal-Procedural Code for seizure of the property, a prosecutor or under his consent investigator determines the place and ownership of the property, to this end proper investigative actions can be conducted in banks, in pawn-shops, in check-rooms, in post offices and in other establishments or depositories for disclosure of money, securities and values. After this the prosecutor or under his consent the investigator files and transfers justified appeal for seizure. The appeal is examined by a judge under the general regulations. Examination of the above appeal is possible without oral proceedings (Article 193).

Financial Monitoring Service can also appeal in court for freezing of financial and economic assets, or can address the court with request of suspension of the transaction, in case there is suspicion of the above means being intended for financing of terrorism (in this case the evidences are immediately transferred to the competent services of General Prosecutor's Office and of Ministry of Internal Affairs).

Seizure of the property is carried out under instructions of the judge, the copy of which is transferred to the investigator or the prosecutor in response to their appeal, or under resolution with all proper documentation of the court pleading the criminal case.
It must be mentioned in the order of the judge or in the resolution of the court: whose property is seized; where and by who it is kept; what objects, securities, money, value compose the property, if this is determined by the investigation; what part of common property is subject to seizure; who is responsible for execution of the seizure order; whether search is permitted in case refusal on voluntary depositing of the property; who and when the search has permitted; what amount is to be seized as a security for the suit in case the property, money, values are kept at different places and with different persons; proper number of orders of judges or resolutions of court on seizure of property must be issued (Criminal-Procedural Code, Article 194).

In case of urgent necessity, if there is a ground to believe that the property will be concealed or destroyed, prosecutor or investigator with consent of the prosecutor has the right to issue justified order on seizure of the property. The order must include obligatory above-mentioned requisites mentioned in the order of the judge (for action at law or judgment). The order shall be executed by the investigator or prosecutor, issuing the order and this shall be reported within 24 hours to the judge, who shall confirm lawfulness of the order or acknowledge it as illegal and cancel the seizure of property (Criminal-Procedural Code, Article 195).

Investigator or prosecutor presents the order of the judge to the person at who the property is kept and demands transfer of the property. In case of refusal, or availability of firsthand information about the whole property not being transferred, search is carried out.

On the ground of the court decision, seizure of the property is executed by officer of the court. Officer of the court decides which objects and values are subject to seizure under

frames of the amount fixed in the decision. A specialist participates in seizure of property who determines the value of the property. After freezing of money deposit, operations with the deposit are terminated (Criminal-Procedural Code, Article 196).

Under Article 197 of the Criminal-Procedural Code the investigator or the prosecutor draws a protocol concerning seizure, and the court officer prepares lists of the property. The protocol (description) shall include exact name of the seized property, its quantity, size, weight, amortization level and other individual characteristics and value. It shall indicate which property is confiscated and which remained for keeping; whether the property or its part belongs to other persons; statements must be included about actions of the person who seizures the property. The certified sealed copy of the protocol (description) is delivered to the person whose property is seized, and if seizure was conducted in absence of the above person – to adult member of the family, or representative of the local governing authority. in the case of seizure of property at institution or enterprise, copy of the report is delivered to representative of the administration.

Under the Article 198 of Criminal-Procedural Code, the seized property, except real estate and large-size objects, must be taken out. Precious metals, jewels and precious stones, foreign currency, cheques, securities are handed over to the state bank and bonds and lottery-tickets – to savings bank. Money is deposited in court that pleads the criminal case. The rest part of the confiscated objects is sealed and kept with the body under appeal of which the property was seized, or transferred for keeping to representatives of the local government or executive body of the self-government. The seized and confiscated property, except the above mentioned, is sealed and kept with the owner, possessor or adult member of the family of the accused. The latter are warned with receipt about their responsibility for amortization, or damage of the property, as envisaged under the laws.

Seizure of property is carried out prior to execution of conviction or stoppage of criminal case (Article 199 of the Criminal-Procedural Code). Order of judge on seizure of property can be appealed during 72 hours after its issue or execution, while legal resolution on refutation to seizure of property can be appealed during 48 hours after its announcement. The appeal does not prevent from execution of the order. A person who believes that either his property is illegally seized, or there is no ground for seizure as well as a person who is not involved in the case and whose property has been indicated in the protocol by mistake, has the right, under the Criminal-Procedural Code of Georgia, of appeal in court with demand to release the seized property. The resolution of the court is mandatory for the investigator and the prosecutor as well as for the court pleading the criminal case (Article 200, Criminal-Procedural Code of Georgia).

In case of rehabilitation of the accused or the convicted person, the Criminal-Procedural legislation of Georgia (Article 201) envisages return of the seized or confiscated property in kind. If this is impossible, it shall be compensated according to average market price on the day of rehabilitation.

10. In Georgia, the system of revealing and suppression of financing of terrorism is established by the Financial Monitoring Service of Georgia together with special service of criminal prosecution of legalization of illegal incomes at the General Prosecutor's Office of Georgia, special operative sub-division for fight against money laundering at the Ministry of

Internal Affairs of Georgia and Counter-Terrorist Centre at the Ministry of Internal Affairs. Operation of the above bodies and exchange of information on possible crimes between them is well coordinated.

The Financial Monitoring Service, as a part of the system, ensures revealing of facts of financing of terrorism and legalization of illegal incomes in the financial and money-and-credit system. The service coordinates activities of the financial monitoring bodies as well as closely cooperates with both Georgian and foreign law enforcement bodies and with international organizations.

During implementation of its functions, the Financial Monitoring Service has the right to request information (including the confidential information) from the monitoring bodies as well as from any state or local self-government bodies, or official. The Financial Monitoring Service creates information networks and databases as well as processes and analyses the information received from the financial monitoring bodies and other sources. Financial Monitoring Service is authorized, within its competence, to enter in agreements with relevant agencies of foreign states concerning exchange of information about legalization of illegal incomes and financing of terrorism. Financial Monitoring Service is authorized to send to competent bodies of foreign states and international organizations requests on providing information concerning legalization of illegal incomes and funding of terrorism, and in its turn, on meeting similar requests from similar bodies and organizations.

Financial monitoring is carried out by the following bodies: commercial banks, currency exchange offices and non-banking deposit institutions, broker companies and registrars of securities, insurance companies and founders of non-state pension system, persons conducting lotteries and other gambling games, persons dealing with precious stones and jewelry as well as antiques, customs bodies, persons releasing grants and charity aid, notaries and post offices (exact description of obligations of financial monitoring bodies see in the answer to the next question). After analyzing information received from the financial monitoring bodies, if there is reasonable ground to believe, that transaction is suspicious and legalization of illegal incomes or funding of terrorism is being carried out, the Financial Monitoring Service transfers proper evidences to General Prosecutor's Office and proper structural divisions of the Ministry of Internal Affairs.

Upon receiving information from Financial Monitoring Service on financing of terrorism, special service of criminal prosecution of legalization of illegal incomes at General Prosecutor's Office of Georgia (established under order of the Prosecutor General of Georgia of 10 October 2003) checks the above information. In case of revealing signs of crime related to financing of terrorism, for further investigation the special service transfers the information to the Counter-Terrorist Centre at the Ministry of Internal Affairs. Operative support is provided to this special service by special operative sub-division against money laundering of the Ministry of Internal Affairs.

Worth mentioning, that information provided by the Financial Monitoring Service represents only one of the grounds for initiation of investigation of the fact of financing of terrorism. The above-mentioned investigative bodies initiate the investigation pursuant to

general manner provided in the Criminal-Procedural Code under which in case[1] of available information on committed crime, the investigator, the prosecutor, within the limits of their competence, must initiate preliminary investigation (Article 261 of the Criminal-Procedural Code).

Under the Criminal-Procedural laws of Georgia, if elements of crime referring to funding of terrorism are revealed in the course of investigation of the criminal case, an investigative body must single out the case and transfer it for investigation to the bodies responsible for both the investigation and criminal prosecution of financing of terrorism and money laundering.

International cooperation of the bodies responsible for investigation and criminal prosecution of financing of terrorism is implemented on the ground of both international treaties and agreements in the field of fight against terrorism particularly. (Details are available in the answer to question 24).

11. Under Article 6 of the Law, the persons occupied with monitoring must, according to their basic operations, identify all persons cooperating with them (their representative and persons empowered to act on their behalf as well as the third person provided the transaction is made in favour of the third person).

The commercial banks must also identify every person opening an account, all representatives responsible for opening or disposition of account as well as the third person in the name of who the account is opened.

The person occupied with monitoring is not authorized to provide service to client and to establish business contacts with him without preliminary identification.

The information (documents) provided for identification of a person shall give opportunity to determine at least: in case of natural person – name, surname, citizenship, date of birth, place of residence, personal number according to identity card (passport), number of identity card (passport), (in case of individual entrepreneur - also the body where he is registered, date and number of registration); in case of legal person – name, field of business, legal address, the body where he is registered, date and number of registration, identification code and leadership and authorized representation.

Non-resident legal person must legalize the documents for his identification under the regulations envisaged in the Georgian legislation.

Under Article 5 of the Law, a transaction (conclude or implemented) or set of transactions made for distribution of the transaction (the amount under it) is subject to monitoring in case if:

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[1] Information provided to investigator or prosecutor by either natural, or legal person, state bodies, governments and self-governments, officials, operative investigative bodies, persons who acknowledged the guilt or who were found through Mass Media as well as the information obtained directly by the bodies conducting criminal procedures in the course of investigation, except the cases when representative of the above body is a witness or a victim of the crime, evidences obtained in the investigation of the criminal case is the ground for initiation of preliminary investigation. Investigator or prosecutor is also authorized to initiate investigation on the ground of anonymous information, however initiation of criminal prosecution against person only basis of anonymous information is inadmissible.

a) The amount of the transaction or set of transactions exceeds GEL 30,000 (for both cash and cashless settlements)
b) The transaction is suspicious

The transactions is suspicious regardless its amount, when it is believed that it was concluded or implemented with the aim of legalization of illegal incomes (it lacks well-founded economic (commercial) content or evident legal aim, is not inconsistent with normal activities of the party to the transaction, the identification of parties to the transaction or of origin of the money is impossible, etc), or one of the participants has contacts either with terrorists, or with supporters of terrorists, or the address or place of residence of any participant person is located in the non-cooperative zone (state or part of the state that according to information from the competent international organizations is acknowledged by the Georgian Financial Monitoring Service as the non-cooperative zone), or transfer of its funds is carried out either to such zone, or from such zone.

In addition, besides the suspicious transactions, a transaction (made or implemented) or set of transactions made for distribution of the transaction is also subject to monitoring of commercial banks, in case the amount of the transaction or set of transactions exceeds GEL 30,000 or the equivalent in other currency, and the transaction by its nature represents the following transaction (operation):

a) Receipt of the money by means of banking bearer-cheque as well as exchange of banknote of one nominal for banknote of another nominal;
b) Purchase and sale of foreign currency in cash;
c) Transfer of money to the banking account in Georgia by holder of the banking account with the bank registered in a non-cooperative zone or an off-shore zone, or transfer of money from Georgia to the banking account with the bank registered in a non-cooperative zone or an off-shore zone;
d) Taking or getting credit by a person registered in a non-cooperative zone or an off-shore zone, or any other transaction (operation) carried out by such person through banking institutions in Georgia;
e) Transfer of money from Georgia to the banking account of anonymous person in another state, or transfer of money to Georgia from the banking account of anonymous person in another state;
f) Placing of money in the Authorized Capital of an enterprise, except purchase of shares of accountable enterprise envisaged under the Law of Georgia Concerning Securities Market;
g) Depositing by an individual of money in cash at the banking account, and future transfer of the amount;
h) Release of credit under guarantee of securities payable to bearer;
i) Release of credit without guarantee;
j) Transfer of money to the account of legal person during 3 months after registration, or transfer of funds from the account;
k) Transfer to or from the account of the funds of either grant, or charity aid.

Under the paragraph 7 of Article 5 of The Law, the persons occupied with monitoring must suspend implementation of the transaction, if a party to the transaction is included in the list

of persons, supporters of either terrorists, or terrorism, and they must immediately transfer the proper form of the notice to the Financial Monitoring Service.

If identification of a person intending to establish business relationships with a financial monitoring body is impossible, the body refuses to establish business relationships with the above person.

The monitoring bodies must register the transactions subject to monitoring and to keep the information with them. The above information must include: type of the transaction, subject of the transaction, grounds, form, goals and objectives, date and place of making the transaction, the amount of the transaction as well as the currency used for settlements under the transaction, information for identification of the parties to the transaction.

Financial monitoring bodies implement their obligations under control of the supervisory bodies. The supervisory bodies come as follows: the National Bank of Georgia, Georgian National Commission for Securities, Ministry of Finance of Georgia, Ministry of Justice of Georgia and Ministry of Economic Development of Georgia.

The supervisory bodies must cooperate with each other, with the authorized bodies of both Georgia and other states and with international organizations by means of exchange of information and experience as well as must assist the law enforcement bodies within the frames of their competence.

If the supervisory bodies find that the transaction is subject to monitoring and that the information on it has not been reported to the Financial Monitoring Service of Georgia, or if the demands under The Law and of corresponding standard acts as well as the instructions of the Financial Monitoring Service have been violated, the supervisory body must immediately report on it to the Financial Monitoring Service and impose proper sanction upon the person guilty of the violation.

The Law of Georgia Concerning Operations of Commercial Banks envisages liability of the commercial banks for violation of requirements under the Law of Georgia Concerning Prevention of Legalization of Illegal Incomes. Considering graveness of the offence, the National Bank of Georgia can impose one of the following sanctions upon the commercial bank: written warning; taking special measures or issue of instructions with demand to the bank of termination and prevention in future from any breach (action), and, under the terms fixed by the National Bank of Georgia, of taking measures for elimination of the offences (actions); imposing of fine under the order and in the amount fixed by the National Bank of Georgia, though not exceeding the equity of the bank; payment of fine by the commercial bank under order and in the amount fixed by the National Bank of Georgia, if the actions of the administrators financially damaged the commercial bank, or the violation has been committed referring to regulatory rules and demands established by the National Bank of Georgia for banking operations; suspension of the administrator's power to sign documents, or a demand of temporary dismissal of supervisory council of the bank; demand of call of extraordinary general meeting of shareholders for discussion and approval of the obligatory measures against the offences committed by the supervisory council and the board of directors; suspension and limitation of enlargement of the number of shares, distribution of profit, dividends and payment of bonuses, decrease of salary rates and attraction of deposits;

in the special cases, when danger is established to interests of depositors and creditors, suspension of active operations of the bank and introduction of the acting administration order; demand of stoppage or limitation of control from the side of the persons controlling the commercial bank, in case of non-transfer of financial and other information to the National Bank of Georgia, or in case of establishment of any guilt of the offence, and such stoppage or limitation must take place as long as the National Bank considers it necessary in the current situation and under the conditions fixed by the National Bank; cancellation of license on banking operations.

Under Article 10 of The Law, Financial Monitoring Service with consideration of the information received from the persons occupied with monitoring, provided there is grounded doubt of the transaction being suspicious, or being implemented with the aim of legalization of illegal incomes or financing of terrorism (without permission of any body or person), the Service transfers the documents at its disposal (including the confidential ones) to the special service of criminal prosecution of legalization of illegal incomes, and the latter initiates the investigation.

12. Humanitarian organization Madli has accounts in Georgia: in Pounds Sterling, in GEL and in US dollars ($).

The list of the money amounts transferred to Madli in 1999-2002:
1. HSBC Bank (New York) - $116,000
2. City Bank NA (New York) - $75,000
3. Republic National Bank (New York) - $70,000
4. Ing Bank NV (Vienna) - $29,000
5. Bankers Trust (New York) - $15,000 (see also the answer on question 4).

13. No.

14. Under the Law and the Regulations of the Financial Monitoring Service, the head of the Service issues order under which incorporation of the consolidated list of terrorists as well persons and organizations privy to terrorism is made (the list accords to The List prepared in the UN Security Council). Besides, the list of undesirable zones is issued for use by the staff (the so-called black list of the countries and territories, where the measures against money laundering and funding of terrorism either are not carried out, or the measures are insufficient) on the ground of FATF information. The lists are obligatory for use by persons occupied with monitoring. The lists are printed at official printing house, and they are subject to regular corrections.

A monitoring body reports to the Financial Monitoring Service in written form about the transaction subject to monitoring. The report is provided by means of special accountable form worked out by the Financial Monitoring Service in cooperation with the supervisory body. The accountable form must include full information about the transaction, parties to it and the banking accounts. The accountable form shall be transferred during 3 days after fulfillment of the transaction or appearance of suspicion of legalization of illegal incomes, but in case there is grounded suspicion of a party to the transaction having contacts with terrorists or supporters of terrorists, a monitoring body must transfer the accountable form

as well as all available documents and evidences to the Financial Monitoring Service on the day of getting the information. The printed accountable forms are kept during 5 years. After the accountable forms are examined, the Financial Monitoring Service will transfer the information about suspicious transaction to corresponding law enforcement bodies that will carry out further investigation (see also the answer on question 10).

Worth mentioning, the commercial banks are obliged to carry out all operations that do not imply opening of banking account by a person, including money transfers to and from the bank, only after identification of the above person. Such operations, provided there is ground for it, are subject to monitoring as envisaged by the goals and objectives of the Law.

Under The Law, export and import at the territory of Georgia of money amounts of over GEL 30,000 (or the equivalent in other currency) is subject to monitoring at Customs. In such a case the information must be sent to Financial Monitoring Service

Under the current laws, persons dealing with business of precious metals, precious stones, items made of them as well as antiques are also considered as the persons occupied with monitoring. Accordingly, the above limitations and demands refer to them too.

As regards alternative money-transfer systems, there is no direct prohibition of their operations. At the same time, under the Article 2 of the Law of Georgia Concerning Entrepreneurship, registration of the enterprise is mandatory, and the enterprise is considered effective only after registration at the registry of entrepreneurship. Violation of the above regulation is subject to criminal liability under the Article 192 of the Criminal Code of Georgia (Illegal Business).

Worth mentioning, besides, that money transfers by the systems similar to Western Union are mainly carried out through commercial banks. As mentioned above, the commercial banks are obliged to carry out operations not implying opening of banking accounts, including money transfers to and from the banks, only upon completion of the identification procedure of the person.
(See also answer to question 14).

IV. Travel Ban

15. Under the sub-paragraph (h) of Article 3 of Chapter 2 of the Law of Georgia Concerning Legal Status of Foreigners, the State can refuse to any foreigner to enter in the territory of Georgia who is suspected in terrorism.
(See also answer to question 2).

16. See answer to question 2.

17. The Counter-Terrorist Centre of the Ministry of Internal Affairs transfers the updated lists to the State Border Department in every three months.

18. At present, none of listed individuals have been stopped at our border entry points.

19. Such cases have not been fixed (see also answer to question 2).

V. Arms Embargo

20. Relationships related to weapons turnover and control are regulated under the Laws of Georgia Concerning Weapons and Concerning Control of Export-Import of Armaments, Military Equipment and Products of Double Destination.

The right of production, repair and trade of weapons and ammunition belongs to the persons specially established for the above activities to be carried out under the license issued by the Ministry of Justice of Georgia. The general license is issued for production, repair and trade of military battle weapons. The general license is issued by the Ministry of Justice on the ground of recommendations of the permanent commission for military-technical issues.

Under the Georgian laws, the military battle weapons are the weapons defined by the special bodies as intended for the state defence and security guarantees as well as battle and operative goals and objectives. The military battle weapons also include the products of double destination, not intended for military goals and objectives, but possible to be used for production of nuclear, chemical and other kinds of Weapons of Mass Destruction (WMD) and means of their delivery. The military battle weapons also include the armament, military equipment, ammunition and technical documentation.

The permanent commission for military-technical issues has been established at the Ministry of Defence of Georgia. The commission, on the ground of cooperation with corresponding ministries, departments and organizations, coordinates the military-industrial and scientific-technological potential, military-technical activities of law enforcement and military structures, military products and products of double destination in Georgia, including weapons turnover as well as the activities related to the issues of military-technical cooperation with foreign countries, and issues conclusions and recommendations in the above field.

The issues submitted to the permanent commission for military-technical issues of the Ministry of Defence of Georgia are discussed at the sessions of the expert group (the expert group has been established at the commission for military-technical issues), and the conclusions are submitted to the permanent commission for military-technical issues at the Ministry of Defence of Georgia. The expert group is composed of representatives of the Ministry of Internal Affairs of Georgia, Ministry of Economic Development, Ministry of Justice, Ministry of Defence, Ministry of Finance and their administrations. Accordingly, upon issue of permits for production, repair, trade, export-import of weapons (including battle and military-battle weapons as well as ammunition), the persons are subject to check and examination in proper bodies. Full documentation with confirmation of expediency of the question raised by the interested party from viewpoint of national interests of the country and international commitments must be the ground for approval.

Under the Article 19 of the Law of Georgia Concerning Weapon, the right of acquisition of weapons and ammunition have:

a) Persons who under the regulations envisaged in the Georgian laws implement production and trade of weapon as well as state institutions envisaged under the same law;
b) Persons who under the regulations of the Georgian laws are collecting and exhibiting weapons;
c) Sporting organizations of the corresponding type;
d) Persons who are occupied with hunting as well as sporting, amateurish and scientific hunting;
e) Citizens of Georgia;
f) Citizens of foreign states.

The permit for acquisition of weapons, including both long-boled and short-barreled weapons as well as ammunition, with the right of keeping, and the permit for acquisition and bearing of gas, sporting and hunting weapons (except cold steel and cold-shooting weapon) and ammunition are issued by the Ministry of Internal Affairs of Georgia to natural persons, except those fixed in the above Law as the state officials. Acquisition of weapon is permitted during three months after issue of the permit. The acquired civil weapon (except pneumatic weapon and aerosol devices) is subject to registration in the corresponding bodies of the Ministry of Internal Affairs of Georgia during 10 days after acquisition. Importation to Georgia and removal from Georgia of separate items of weapons by natural persons (except export-import, transit and re-export) is carried out under the order envisaged by the Georgian laws and on the ground of permit issued by the Ministry of Internal Affairs of Georgia.

Citizens of other states have the right of acquisition of weapon in Georgia only with permit of the Ministry of Internal Affairs of Georgia issued on the ground of appeal of the above state.

Activities related to production of weapon, ammunition and military equipment as well as working out of technical documentation, service of export-import, re-export, transit and processing at the customs territory both in and beyond Georgia, temporary import and export are controlled by means of the permit issued by the Ministry of Justice of Georgia, while of the products of double destination – by means of permit issued by the Ministry of Economic Development.

In order to obtain the permit, the following documents must be submitted to the competent body executive authority of Georgia alongside with identification documents of a person:

a) Contract (agreement) on import or export;
b) Certificate of end use.

Under the Georgian laws, in order to obtain permit for export, import, re-export or transit of definite kinds of armaments (including weapons), as well as of military equipment, technical documentation, services and works related to production of weapons and ammunition, the applicant for the above permit must present the certificate of end user and the above documents to the Ministry of Justice of Georgia, and in case of export or re-

export of products of double destination – to the Ministry of Economic Development.

Certificate of the final act of use is issued by the authorized body, and it includes obligation of the receiving country to use the product at its territory only for peaceful purposes as well as not to transfer the products to the third country without consent of the country-exporter.

Export of nuclear, special non-nuclear materials, materials of special strategic purpose and of products of double destination to the countries that do not possess nuclear weapon can be carried out only under confirmation by the authorized bodies of the above countries that the exported and imported products as well as nuclear and special non-nuclear materials produced from them, products of double destination, devices, equipment:

a) will not be used for production of nuclear weapon and nuclear explosive devices and other military goals and objectives;
b) will be subject to control (guarantee) of the International Atomic Energy Agency (IAEA) during the whole period of their use under the agreements made between the receiving country and IAEA;
c) will be under physical protection according to recommendations of IAEA;
d) will be re-exported (exported) or will be withdrawn from jurisdiction of the receiving country only under conditions fixed in the a-c sub-paragraphs; as for re-export of the over 20% enriched uranium as well as of Plutonium and of heavy water – only with written consent of the body of the executive power of Georgia responsible for the atomic energy issues.

At export (import) of nuclear and special non-nuclear materials as well as of products of double destination, it must be fixed in the contract that the authorized body of the executive power of Georgia has the right of inspection of the final act of use of the product.

Under the Article 11 of the Law of Georgia Concerning Control of Export-Import of Armaments, Military Equipment and Double-Destination Products:

Georgia has the right of imposing limitations, including embargo, in case of violation of the commitments taken to Georgia by other states referring to export of products subject to export-import control as well as under the resolution of the international organizations that Georgia is member to.

Upon presentation by the permanent commission for scientific-technical issues at the Ministry of Defence of Georgia of the list of the states against which the above limitations can be imposed at passing of the exported products subject to export-import control through the Georgian customs area, the President of Georgia, on the ground of national security interests and meeting by Georgia of its international commitments, approves the list.

The bodies of the executive power of Georgia responsible for export-import control are authorized, in case of necessity, of inspection of the products subject to export-import control. Export through the Georgian customs area of the products subject to export-import control is under control of the Customs administrations of Georgia.

Under the Article 236 of the Criminal Code of Georgia:

1. Illegal acquisition or keeping of fire weapon, ammunition, explosive matters and explosive devices

   - is punished with fine or custody for up to 3 years term, or imprisonment to up to 2 months or custody to up to 3 years.

2. Illegal bearing of fire weapon, ammunition, explosive matters and explosive devices

   - is punished with fine or imprisonment for up to 4 months or custody to up to 5 years term

3. Illegal production, transportation, consignment or sale of fire weapon, ammunition, explosive matters and explosive devices

   - is punished with imprisonment for 5-10 years term.

Note: a person who voluntarily hands over the objects enumerated in the above Article is exempt from criminal liability, if his actions do not contain evidences of another crime.

21. Such cases have not been fixed.

22. See answer to question 20.

23. See answer to question 20.

VI. Assistance and Conclusion

24. Georgia is party to the series of international Treaties and Agreements in the field of prevention and fight against terrorism that envisage effective cooperation instruments for these purposes.

As it has been already mentioned, Georgia has ratified international Convention for the suppression of Financing of Terrorism. Under Article 12 of the Convention, the parties shall afford one another the greatest measure of assistance in connection with criminal investigations or criminal or extradition proceedings in respect of the offences set forth in the convention, including assistance in search of evidences available at them. The party may not refuse a request for mutual legal assistance on the ground of bank secrecy.

Article 18 of the Convention defines cooperation of the parties in prevention of terrorism. The above cooperation implies exchange of exact and reliable information under the domestic laws of the state as well as coordination of the administrative and other measures, and in particular, cooperation, under the Convention, in investigation of such crimes as:

1) Crimes referring to actions, place of residence and personality of the persons against who there is reliable suspicion of them being privy to the crimes;
2) Movement of the funds related to the above crimes.

Alongside with universal Agreements, the regional ones that Georgia is party to are very

important. The European Convention Against Terrorism done in 1977 is of paramount importance..

Under the Article 8 of the above Convention, the parties to the Agreement must, as far as possible, provide legal redress to each other referring to the crimes fixed in the Convention. Refutation to legal redress only by the reason of the crime being political one, or related to politics is unacceptable.

Additional proceedings on fight against terrorism to the Agreement between the Member States to Black Sea Economic Cooperation (BSEC) that refer to fight against crimes envisage, in particular, series of cooperation instruments for prevention and suppression of terrorism. The preamble to the above proceedings includes special note about the parties taking into consideration the United Nations documents referring to fight against terrorism as well as supporting by them the resolutions in the field adopted by the UN Security Council, and especially resolution No. 1373. The parties take obligation of cooperation aimed at revealing, fixing, prevention, suppression and investigation of terrorist acts. Under the Article 5 of the additional proceedings, the parties exchange the following information: information about terrorist organizations, groups and persons as well as about contacts between such terrorist organizations, groups and persons that establish danger to the parties; as well as about terrorist organizations and groups staying at their territories, their equipment and methods, leaders, members as well as about persons supporting and/or participating in actions of those groups; about institutes and organizations supporting and propagating mechanisms of terrorism; about illegal arms traffic, material resources either found or fixed, about funding, depositing or other means of material support to the terrorist organizations and groups.

The Agreement between the Republic of Azerbaijan, Georgia and Republic of Turkey on cooperation in fight against terrorist organized crimes and other grave crimes also envisages mechanisms for cooperation in the field of prevention from terrorism and fight against it.

Under the Article 3 of the Agreement, the parties will work at preparation of the database, in order to find the data about terrorist organizations, groups guilty of organized crimes, actions and methods of groups and persons, participators of the crimes, modus operandi, relationships between them, sources of funding as well as about origin of weapon, ammunition, radioactive, explosive, chemical, biological and toxic matters used in terrorist acts. They classify the data and provide them for open use. Until the system is established, the parties, upon request, will report to each other on the available information. The parties will take necessary measures for including the information in the database.

Under the Agreement, the parties will try to identify and to investigate the actions of the persons and organizations that, directly or indirectly, act in favour of terrorist groups or organized criminal group and to suppress the crimes committed by them.

Under Article 2 of the Agreement between the Government of Georgia and the Government of Latvia on Cooperation in Fight Against Terrorism, Drugs Trafficking and Organized Crimes, the parties:

1. will exchange information and data about participants of the future possible or already committed terrorist act and technical means used by them;
2. will exchange information about terrorist groups and participants of the plotted, committed or possible future terrorist acts as well as will provide both information and data necessary for suppression of terrorism and prevention from crimes establishing serious danger to the state security.

Under Article 1(1) of the Agreement between the Government of Georgia and the Government of Romania on Cooperation in Fight against Terrorist Organized Criminality, Drugs Trafficking, Psychotropic and Precursors Traffic as well as Other Grave Crimes, the parties, under frames of the above Agreement and under own national laws, will cooperate and assist each other in fight against international terrorism.

Under Article 2 of the Agreement, the parties will cooperate by means of the following:

1. Exchange of information and knowledge;
2. Measures and events mutually agreed by the ministries of the both countries and/or by other authorized bodies;
3. Reporting on the operative information necessary for clearing, investigation and suppression of the organized and other creams.

Under the Article 1 of the Agreement between the executive power of Georgia and the Government of the Arabian Republic of Egypt on cooperation in fight against criminality, the parties fighting against terrorism will exchange information about criminal actions of terrorist groups and organized criminality, their relationships, leaders, members, illegal structures, place of residence, funds and used weapons. Effective instruments of international cooperation in fight against terrorism include international Agreements on Mutual Legal Redress. The legal redress under the criminal cases is carried out on the ground of European Convention on Mutual Assistance in Criminal Matters of 1959 (effective in Georgia since 1 November 2000); while under civil, family and criminal cases – on the ground of Minsk Convention on Legal Redress in CIS done in 1993 and on the ground of the Criminal-Procedural Code of Georgia.

Under the Declaration of Georgia in frames of the European Convention on Mutual Assistance in Criminal Matters, General Prosecutor's Office of Georgia is the competent body responsible for appeals for legal redress. In case the appeal meets the demands both under the Convention and under the Criminal-Procedural Code of Georgia (for example, the requested actions envisaging constitutional disability of a person must by all means be permitted for juridical or other corresponding bodies of the corresponding state, and, besides, meeting of the request must not contradict to national interests of Georgia in the fields of national security and sovereignty), the General Prosecutor's Office will transfer the appeal to proper bodies for execution.

As for freezing of funds under the Agreement on Legal Redress, Georgia fulfils corresponding resolutions of juridical bodies of other countries with consideration of its domestic laws.

25. Concerning implementation of the sanctions' order, no problems occurred.